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EXAMINER
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ELAHEE, MD S

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2614

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/990,717

Applicant(s)

WIENER ET AL.

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 40-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. This action is responsive to an amendment filed 08/14/2006. Claims 40-89 are pending.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 40-41,45-46,56-57,61,69-70,73,77 rejected by **Padden**, 56 rejected by **Bateman** and 40-41, 42/40,42/41, 43-46, 47/40,47/41,47/45, 47/46, 48,49,57,58, 59/56,59/57, 61, 62/60,62/61, 63, 64/60,64/61, 65/60,66/61, 67/60,67/61, 68-71, 72/69,72/70, 73-87, 88/40,88/41,88/45,88/46,88/73, 89/40,89/41,89/45,89/46,89/73 rejected by **Bateman** and **Padden** have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

3. Applicant's arguments with respect to claims 40,41,45,46,56,57,61,69,70,73,77 rejected by **Sussman** have been fully considered but they are not persuasive because of the following:

Regarding claims 40,41,45,46,56,57,61,69,70,73,77, the applicant argues on page 15 that **Sussman** employs a conventional switching network (i.e., CCTSN), and not an Internet messaging network, for transmitting the directory information to a subscriber. Examiner respectfully disagrees with this argument. In col.5, lines 50-55, **Sussman** discloses that a user can access telephone subscribers list in on-line directories. In col.6, lines 56-59, **Sussman** further discloses that the subscribers lists are downloaded into computer. Therefore, it is clear that

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Sussman employs an Internet messaging network for transmitting the directory information to a subscriber.

The applicant argues on page 15 that "Nor does it indicate that the directory data is retrieved from the central database via the Internet". The applicant didn't claim that the directory data is retrieved from the central database via the Internet. Thus the rejection of the claims in view of **Sussman** remains.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 40-89 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,324,264. Because claims in the pending application are broader than the ones in patent, *In re Van Ornum and Stang*, 214 USPQT61, broad claims in the pending application are rejected as obvious double patenting over previously patented narrow claims. For example, claim 40 of the pending application is the same as the patented claim 4 which depends on claims 1 and 3 of the patent except that the patented claim 1 recited first and second parties are identified within said PSTN

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by first and second party communications addresses which is not recited in the pending claim 40.

Therefore, claim 40 of the pending application is broader than claim 4 of the patent.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 40,41,45,46,56,57,61,69,70,73,77 are rejected under 35 U.S.C. 102(e) as being anticipated by **Sussman** (US 5,483,586).

As to Claims 40,41,45,46,56,57,69,70, with respect to Figures 1-2, **Sussman** teaches a method of establishing a communications call, including:

enabling an A party to select a B party from a database using an interactive device) connected to a public network, said public network comprising an Internet messaging network (Figure 1, 2; Col. 3, lines 66,67, Col. 4, lines 1-6, 60-63, Col. 5, lines 47-55, Col. 6, lines 25-34, Col. 7, lines 13-17);

utilizing said Internet messaging network to access called address data for said B party from a public directory of said public network in response to selecting said B party (Col. 5, lines 47-55, Col. 6, lines 25-34);

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sending said called address data for said B party and calling address data for the A party to a connection module of said public network (Col. 5, lines 47-55, Col. 6, lines 25-34); and

establishing a call between said A and B parties over said public network using said connection module and said called and calling address data (Col. 2, lines 28-30, Col. 5, lines 47-55).

Claim 61 is rejected for the same reasons as discussed above with respect to claim 40. Furthermore, with respect to Figures 1-2, **Sussman** teaches a system for use in establishing a communications call, including:

a network controller for receiving said called address data and calling address data corresponding to the A party and generating, in response thereto, network control signals to cause said at least one public network to establish a call between said A party and said B party over said network (Col. 2, lines 28-30, Col. 5, lines 47-55).

Claims 73,77 are rejected for the same reasons as discussed above with respect to claim 40. Furthermore, with respect to Figures 1-6, **Sussman** teaches a method of establishing a call between parties, including:

generating a second message in response to said first message, said second message including communication addresses determined on the basis of said identification data by accessing a public directory via said messaging network (Col. 2, lines 28-30, Col. 5, lines 47-55, Col. 6, lines 25-34, Col. 7, lines 13-17).

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***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 40, 41, 42/40,42/41, 43-46, 47/40,47/41,47/45, 47/46, 48,49,56-58, 59/56,59/57, 60,61, 62/60,62/61, 63, 64/60,64/61, 65/60,66/61, 67/60,67/61, 68-71, 72/69,72/70, 73-87,

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88/40,88/41,88/45,88/46,88/73, 89/40,89/41,89/45,89/46,89/73 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bateman et al.** (US 5,884,032) in view of **Sussman** (US 5,483,586).

As to Claims 40,45-46,50-51,60,70,73,79-87, with respect to Figures 1-3, **Bateman** teaches a method of establishing a communications call, including:

enabling a customer [i.e., an A-party] to select on-line help agent [i.e., a B party] using an interactive device, 4, connected to a public network, 6 and 9, said public network comprising an Internet [i.e., Internet messaging network] (Figure 1 and Col. 6, lines 6-13);

utilizing said Internet messaging network to access web pages [i.e., called address data] for said B party from a public directory, 52, of said public network, 6, in response to selecting said B party (Col. 6, lines 31-45);

sending said called address data for said B party and calling address data for the customer [i.e., an A party] to an ACD-MIS system [i.e., connection module] of said public network (Col. 6, lines 32-41); and

establishing a call between said A and B parties over said public network using said connection module and said called and calling address data (Col. 7, lines 5-13).

**Bateman** teaches when a customer selects a "HELP" button, ACD functionality distributes a call corresponding to the selection to one of a plurality of agents (col.9, lines 65-67, col.10, lines 1-13, 31-38). However, **Bateman** does not specifically teach selecting a B party from a database. **Sussman** teaches selecting a B party from a database (Col. 5, lines 47-55, Col. 6, lines 25-34).



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Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Bateman** to select a B party from a database as taught by **Sussman**. The motivation for the modification is to have doing so in order to make a search of a directory to get a particular agent who can assist him instead of waiting for a certain period of time in a queue.

Claims 41,61,69 are rejected for the same reasons as discussed above with respect to claim 40.

Furthermore, **Bateman** teaches a method of establishing a communications call, including:

- enabling an A party to select a B party using an interactive device connected to a public network, said public network comprising an Internet messaging network (Figure 1 and Col. 6, lines 6-13);

- utilizing said Internet messaging network to access called address data for said B party using said interactive device and a search module of said public network and a database of said public network including called address data (Col. 6, lines 31-45);

- sending said called address data for said B party and calling address data for the A party to a connection module of said public network (Col. 6, lines 32-41); and

- establishing a call between said A and B parties over said public network using said connection module and said called and calling address data (Col. 7, lines 5-13).

As to Claim 42/40, 42/41, **Bateman** teaches a method as claimed in claims 40 or 41, wherein said interactive device is a computer and/or telephony device including a visual display (Figure 1, label 4).

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As to Claim 43, **Bateman** teaches a method as claimed in claim 40, wherein said interactive device is associated with said A party (Figure 1).

As to Claim 44, **Bateman** teaches a method as claimed in claim 40, wherein said interactive device is a communications terminal for said call (Col. 7, lines 5-13).

As to Claims 47/45, 47/46, **Bateman** teaches a method as claimed in claims 45 or 46, wherein said public network further comprises at least one public telecommunications network, 9, for connecting said A and B parties (Figure 1).

As to Claim 48, **Bateman** teaches a method as claimed in claim 47, wherein said messaging network provides said interactive device with a plurality of B party data (Col. 6, lines 32-45).

As to Claim 49, **Bateman** teaches a method as claimed in claim 47, wherein said messaging network accesses and forwards said called address data to said telecommunications network (Col. 6, lines 31-45).

As to Claims 52,58, **Bateman** teaches an interface as claimed in claim 51, wherein said results includes called address data for said B party data, and said selected party data includes said called address data (Col. 6, lines 31-41).

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As to Claims 53/50,53/51, **Bateman** teaches an interface as claimed in claims 50, 51 or 52, wherein said interface is sent to said interactive device by said public network on request from said interactive device (Col. 6, lines 1-20).

As to Claims 54-55, **Bateman** teaches an interface as claimed in claim 51, wherein said public network further comprises at least one public telecommunications network for establishing said call (Figure 1).

As to Claim 56, with respect to Figure 1, **Bateman** teaches an interface stored on an interactive device connected to a public network, including:

code for generating a display on interactive device of B party data (Col. 6, lines 8-20);

code allowing an A party to select an URL for an available agent (Col. 6, lines 20-30); and

code for transmitting to said public network selected party data corresponding to the selected B party and A party data (Col. 6, lines 25-30);

whereby said public network accesses called address data for said B party in a public directory by utilizing an Internet network of said public network on the basis of said selected party data and establishes a call between an A party and a B party using said A party data and said called address data (Col. 6, lines 31-55).

However, **Bateman** does not specifically teach selecting a B party from said B party data. **Sussman** teaches selecting a B party from the B party data (Col. 5, lines 47-55, Col. 6, lines 25-34). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Bateman** to select a B party from the B party data as taught by **Sussman**.

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The motivation for the modification is to have doing so in order to get a particular agent from a directory who can assist him instead of waiting for a certain period of time in a queue.

Claims 57,77 are rejected for the same reasons as discussed above with respect to claims 40 and 56. Furthermore, with respect to Figure 1, **Bateman** teaches an interface stored on an interactive device connected to a public network, including:

code for generating a display on interactive device of B party data (Col. 6, lines 8-20);

and

code for transmitting to said public network selected party data corresponding to the selected B party and A party data (Col. 6, lines 25-30);

whereby said public network accesses called address data for said B party in a public directory by utilizing an Internet messaging network of said public network on the basis of said selected party data and establishes a call between an A party and a B party using said A party data and said called address data (Col. 6, lines 31-55).

As to Claims 59/56,59/57, **Bateman** teaches an interface as claimed in claims 56 or 57, wherein said messaging network of the public network includes a TCP/IP messaging network and said public network further comprises at least one public switched telephone network for establishing said call (Figure 1).

As to Claim 62/61, **Bateman** teaches a system as claimed in claim 60 or 61, wherein said network includes at least one public telecommunications network, such as a PSTN, for receiving

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said control signals and establishing said call, and wherein the messaging network comprises the Internet, for passing data between the A party, the access module and the network controller (Figures 1,5).

As to Claim 63, **Bateman** teaches a system as claimed in claim 61, wherein the access module includes directory data from said directory database for display by said A party (Col. 6, lines 32-41).

As to Claims 64/61, **Bateman** teaches a system as claimed in claims 60 or 61, including a search module accessible by said A party over said network for searching said directory database (Col. 6, lines 1-5).

As to Claims 65/61, **Bateman** teaches a system as claimed in claims 60 or 61, wherein said call is established with a terminal of the A party which selects said selected B party (Col. 6, lines 1-5).

As to Claims 66/61, **Bateman** teaches a system as claimed in claims 60 or 61, wherein said call is established with a terminal of the A party which is separate from the terminal selecting said B party (Figure 1, label 2).

As to Claims 67/61, **Bateman** teaches a system as claimed in claims 60 or 61, wherein the address data includes a party terminal number and security information (Col. 6, lines 44-50).

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As to Claim 68, **Bateman** teaches a system as claimed in claim 60, wherein at least one of the calling address data and the called address data includes account information (Col. 6, lines 63-60 and 6-8).

As to claim 71, **Bateman** teaches a server as claimed in claim 70, including a directory database module for accessing directory data, including communications address data, of parties connected to at least said public network, wherein the communications address data of said connect message for at least said B party is obtained using said directory database module (Col. 7, lines 43-61).

As to Claims 74,78, **Bateman** teaches a method as claimed in claim 73, wherein the identification data is page (name data) (Col. 5, lines 15-22).

As to Claim 75, **Bateman** teaches a method as claimed in claim 73, wherein the directory service is adapted to access a database of URLs (public communications addresses) stored against respective identification data (Col. 5, lines 15-22).

As to Claim 76, **Bateman** teaches a method as claimed in claim 73, wherein selection of the displayed element invokes generation of code on the interactive device to generate and send the first message (Col. 6, lines 14-24).

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As to Claims 88/40,88/41,88/45,88/46,88/73, **Bateman** teaches a network system having components for executing the steps of a method as claimed in claims 40, 41, 45, 46, 73 (Col. 6, lines 31-60).

As to Claims 89/40,89/41,89/45,89/46,89/73, **Bateman** teaches a Computer software having code for executing the steps of a method as claimed in claims 40, 41, 45, 46, 73 (Col. 6, lines 14-65).

12. Claims 40,41,45,46,50,51,56,57,60,61,69,70,73,77 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Padden et al.** (US 4,979,206) in view of **Sussman** (US 5,483,586).

As to Claims 40,41,45,46,56,57,69,70, with respect to Figures 1-6, **Padden** teaches a method of establishing a communications call, including:

enabling an A party to select a target customer (a B party) from a database using a VRU (an interactive device) connected to a public network, said public network comprising a messaging network (Figure 1 and Col. 6, lines 49-60);

utilizing said messaging network to access called address data for said B party from a public directory of said public network in response to selecting said B party (Col. 6, lines 60-67 and Col. 7, lines 1-7);

sending said called address data for said B party and calling address data for the caller (the A party) to control 10 (a connection module) of said public network (Col. 7, lines 3-15); and

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establishing a call between said A and B parties over said public network using said connection module and said called and calling address data (Col. 7, lines 11-14).

**Padden** discloses voice and data switching network 12 (fig.1) as a messaging network since voice message is being transmitted through the network (see Col. 6, lines 49-60). However, **Padden** does not specifically teach messaging network is an internet messaging network. **Sussman** teaches that messaging network is an internet messaging network (Col. 5, lines 47-55, Col. 6, lines 25-34, 56-59). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Padden** to incorporate messaging network as an internet messaging network as taught by **Sussman**. The motivation for the modification is to have doing so in order to download subscribers lists to a user device such that the user can browse through the lists.

Claim 61 is rejected for the same reasons as discussed above with respect to claim 40. Furthermore, with respect to Figures 1-6, **Padden** teaches a system for use in establishing a communications call, including:

a network controller for receiving said called address data and calling address data corresponding to the A party and generating, in response thereto, network control signals to cause said at least one public network to establish a call between said A party and said B party over said network (Col. 5, lines 50-68).



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Claims 73,77 are rejected for the same reasons as discussed above with respect to claim 40. Furthermore, with respect to Figures 1-6, **Padden** teaches a method of establishing a call between parties, including:

generating a second message in response to said first message, said second message including communication addresses determined on the basis of said identification data by accessing a public directory via said messaging network (Col. 5, lines 50-68, Col. 6, lines 60-67 and Col. 7, lines 1-14).

As to Claims 50-51,60 are rejected for the same reasons as discussed above with respect to claim 40. Furthermore, with respect to Figures 1-6, **Padden** teaches an interactive device for originating a communications call, including:

a display controller for causing display of a desired directory number (at least one B party) (Col. 5, lines 14-18);

an operator (selector) for enabling an A party to select a B party on said display (Col. 5, lines 20-30); and

data link 54 (a link) which on being activated sends selected party data corresponding to said B party to a DAS/C computer (public network),

whereby said public network accesses called address data of said B party in a public directory via a messaging network on the basis of said selected party data and forwards said called address data to connection module of said public network to establish a call with said B party (Col. 5, lines 50-68).

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However, **Padden** does not specifically teach displaying of at least one B party from a database to an A party. **Sussman** teaches displaying of at least one B party from a database to an A party (Col. 5, lines 48-55 and Col. 6, lines 26-34). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Padden** to display of at least one B party from a database to an A party as taught by **Sussman**. The motivation for the modification is to do so in order to make a selection from a list displayed on his own terminal.

### *Conclusion*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ME

MD SHAFIUL ALAM ELAHEE

April 30, 2007

A handwritten signature in black ink, appearing to read 'Fan Tsang', with a long horizontal stroke extending to the right.

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600